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10/725,612	12/02/2003	Kwasi Addo Asare	RSW9-2003-0192US1 (7161-1)	5007
46320 7590 12/29/2006 CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP STEVEN M. GREENBERG 950 PENINSULA CORPORATE CIRCLE SUITE 3020 BOCA RATON, FL 33487			EXAMINER CHEN, QING	
			ART UNIT 2191	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/29/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/725,612	Applicant(s) ASARE ET AL.	
	Examiner Qing Chen	Art Unit 2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6-8,10,11,13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-8,10,11,13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to the amendment filed on October 25, 2006.
2. **Claims 1, 2, 4, 6-8, 10, 11, 13, and 15** are pending.
3. **Claims 1, 4, 6, 7, 10, 13, and 15** have been amended.
4. **Claims 3, 5, 9, 12, and 14** have been cancelled.
5. The objection to the oath/declaration is maintained, since the Office has not received a supplemental oath/declaration to address the objection.
6. The objection to the drawings is withdrawn in view of Applicant's persuasive arguments.
7. The objections to the specification due to informalities are withdrawn in view of Applicant's amendments to the specification and persuasive arguments.
8. The objections to Claims 1, 7, 10, and 12 are withdrawn in view of Applicant's amendments to the claims and persuasive arguments. The objection to Claim 3 is withdrawn in view of Applicant's cancellation of the claim.
9. The 35 U.S.C. § 101 rejections of Claims 7 and 8 are maintained in view of Applicant's amendments to the claims and arguments and further explained below. The 35 U.S.C. § 101 rejection of Claim 9 is withdrawn in view of Applicant's cancellation of the claim.

Response to Amendment

Claim Objections

10. **Claims 1 and 10** are objected to because of the following informalities:
 - **Claims 1 and 10** contain a typographical error: a colon (:) should be added after the phrase "the steps of" in the aborting installation step.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

11. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

12. **Claims 7 and 8** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 7 and 8 are directed to systems. However, the recited components of the systems appear to lack the necessary physical components (hardware) to constitute a machine or manufacture under § 101. Therefore, these claim limitations can be reasonably interpreted as computer program modules—software *per se*. Furthermore, the specification discloses that the present invention can be realized in software (*see page 14, paragraph [0030]*). Therefore, the claims are directed to systems of functional descriptive material *per se*, and hence non-statutory.

The claims constitute computer programs representing computer listings *per se*. Such descriptions or expressions of the programs are not physical “things.” They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program’s functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element, which defines structural and functional

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interrelationships between the computer program and the rest of the computer, that permits the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claims 1, 2, 4, 6-8, 10, 11, 13, and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Zimniewicz et al.** (US 6,744,450) in view of **Donohue** (US 6,202,207).

As per **Claim 1**, **Zimniewicz et al.** disclose:

- identifying target platform requirements for installation of a subject application component within a target specific installation script (*see Column 7: 6-9, "CD 81 and Disk 83 Information Managers provide required information concerning file location, size, etc. for the suite CD(s) during the integration process, and for the user's system onto which the suite will be installed."*; Column 8: 18-25, "A baseline is a requirement determined by the suite owner. It concerns what OS/applications must be on a user's machine before installation of the suite can begin.");

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- further identifying a listing of dependencies for said subject application and at least one specified relationship between said subject application and individual ones of said dependencies (*see Column 8: 53-54, "Suite baseline components may have dependent components." and 66-67 through Column 9: 1-5, "... consider a suite with Program A, Program B, and Program C included therein. Now assume that Program B is dependent on Program C, i.e. Program B needs Program C for proper operation. SIT will detect this dependency and will install Program C before Program B ..." and 18-21, "By default, SIT provides the Scenario Baseline page that displays what components need to be on the user's machine and what components are currently installed ..."*);

- enforcing both said target platform requirements and said at least one specified relationship prior to installing said subject application component (*see Figures 3 and 4a-4c; Column 7: 9-13, "During the installation process, the Setup Manager 79 utilizes the services of a Dependency Manager 85 to ensure that the required dependencies of the application programs within a suite are met." and 15-19, "A Validation Manager 87 is also used by the Setup Manager 79 to verify that required system components needed by the suite are met by the user's system for much the same reasons as for the Dependency Manager 85."; Column 8: 4-7, "The Dependency Manager 85 provided dependency checking and install-order calculation and verification across all selected components ..."; Column 9: 46-48, "Then, the Dependency Manager is called 96 to perform dependency checking among the components that user has selected."; Column 10: 15-19, "The suite installation requirements dynamic load libraries (dll) are then loaded 116 if specified, and a check is made 118 to determine if suite requirements have*

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been met (i.e. RAM, processor, platform, pagefile, etc.).” and 23-24, “A check that the system meets the minimum requirements for the suite baseline is then performed 128.”); and,

- aborting said installation where either one of said target platform requirements and said at least one specified relationship cannot be enforced (*see Column 8: 56-60, “If SIT cannot install the dependent components (and hence the suite baseline component), SIT informs the user, logs the error, terminates installation of the component which has a missing dependency, and continues with the rest of the installation.”; Column 10: 24-27, “A check that the system meets the minimum requirements for the suite baseline is then performed 128. If the minimum requirements are not met, this is reported to the user 132. If the setup is unattended 134, the error is logged 136 and setup is terminated 126.”*), wherein said enforcing step comprises the steps of:

- determining whether all required ones of said dependencies can be accessed in said target platform (*see Column 11: 3-13, “... the component selection page presents the user with a tree view containing all of the components and their sub components. From this view the user may select or deselect a component and set its installation directory of any component.”*); and

- for each required one of said dependencies which cannot be accessed in said target platform, locating and installing said required one of said dependencies in said target platform (*see Column 9: 56-69, “The Setup Manager also installs 102, when necessary, components needed to achieve the scenario baseline if it differs from the suite baseline.”*).

However, Zimmiewicz et al. do not disclose:

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- updating dated ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies.

Donohue discloses:

- updating dated ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies (see *Column 9: 59-63, "The entries in the software updates list 60 include for each software product version 110 an identification 120 of the software resources required for applying the update and an identification 130 of its prerequisite software products and their version numbers."; Column 11: 46-63, "If all required resources are available locally (or on another machine in the case of software relying on some pre-requisite software operating on a remote machine), and have been verified, then the updater component progresses to the step 310 (see FIG. 4) of building the updated software version."*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Donohue into the teaching of Zimniewicz et al. to include updating dated ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies. The modification would be obvious because one of ordinary skill in the art would be motivated to correct bugs and/or add new features in the software products (see Donohue – Column 1: 21-23).

As per **Claim 2**, the rejection of **Claim 1** is incorporated; and Zimniewicz et al. further disclose:

- wherein said further identifying step comprises the step of further identifying a listing of dependencies for said subject application and at least one specified relationship between said subject application and individual ones of said dependencies, wherein said at least one specified relationship is a relationship selected from the group consisting of a containment relationship, a usage relationship, a contradictory relationship and an equivalence relationship (*see Column 8: 66-67 through Column 9: 1-5, "... consider a suite with Program A, Program B, and Program C included therein. Now assume that Program B is dependent on Program C, i.e. Program B needs Program C for proper operation. SIT will detect this dependency and will install Program C before Program B ... "*).

As per **Claim 4**, the rejection of **Claim 1** is incorporated; and Zimniewicz et al. further disclose:

- wherein said determining step comprises the step of querying a registry of installed components in said target platform to identify components which have been installed in said target platform (*see Column 9: 33-36, "It then loads 86 the setup data file (setup.sdb) that contains general installation information, including scenarios, display order of components, list of startup and finish screens, etc."; Column 10: 30-32, "The suite baseline can also be specified in the setup data file ..." and 34-36, "Generally, suite baselines include OS, SPs, quick fix engineering or hot fixes (QFEs) (possibly as hidden components), Internet Explorer (IE), etc."*).

As per **Claim 6**, the rejection of **Claim 1** is incorporated; however, Zimniewicz et al. do not disclose:

- wherein said enforcing step further comprises the step of patching flawed ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies.

Donohue discloses:

- wherein said enforcing step further comprises the step of patching flawed ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies (*see Column 9: 67 through Column 10: 1-2, "In other cases, the resources comprise patch code for modifying an existing program (e.g. for error correction) and the patch's installation instructions."; Column 12: 13-19, "As examples, the software product to be updated may be a word processor application program. If the word processor as sold missed certain fonts or did not include a thesaurus, patches may subsequently be made available for adding these features. The updater component has the capability to add these to the word processor, subject to the update criteria."*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Donohue into the teaching of Zimniewicz et al. to include wherein said enforcing step further comprises the step of patching flawed ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies. The modification would be obvious because one of ordinary skill in the art would be motivated to correct bugs and/or add new features in the software products (*see Donohue – Column 1: 21-23*).

As per **Claim 7**, Zimniewicz et al. disclose:

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- a component installation engine configured to install application components and respective dependencies over a component distribution system (*see Figure 2: 79; Column 6: 40-44, "This system is embodied in a Suite Integration Toolkit (SIT) and utilizes a common architecture used for a setup database file (setup.sdb) to identify components and their available actions to be performed during the installation and setup thereof."*; Column 7: 4-5, "The SIT includes a Setup Manager 79 that drives the installation process through the setup.sdb files for the suite.");
- a script processor coupled to said engine and programmed to parse target specific installation scripts to identify both a listing of dependencies for the application components and at least one specified relationship between the application components and individual ones of said respective dependencies (*see Figure 2: 85; Column 7: 9-13, "During the installation process, the Setup Manager 79 utilizes the services of a Dependency Manager 85 to ensure that the required dependencies of the application programs within a suite are met."*); and,
- a requirements verification processor programmed to enforce both target platform requirements for installing the application components and said at least one specified relationship prior to installing the application components (*see Figure 2: 85 and 87; Column 7: 15-19, "A Validation Manager 87 is also used by the Setup Manager 79 to verify that required system components needed by the suite are met by the user's system for much the same reasons as for the Dependency Manager 85."*).

However, Zimniewicz et al. do not disclose:

- the component installation engine including a communicative coupling to a repository of updated ones of said dependencies; and

- wherein the component installation engine updates dated ones of said dependencies with said updated ones of said dependencies prior to installing said application components.

Donohue discloses:

- the component installation engine including a communicative coupling to a repository of updated ones of said dependencies (*see Column 8: 1-9, "The installation of each updater component includes the updater component registering itself with the operating system or another repository 40 on the local computer system. Thus, at least the updater components on the local system are identifiable and contactable by address information, and/or their product identifier, within the register entry. In alternative embodiments of the invention, the repository 40 may be a central or distributed repository for the network, as will be discussed below."*); and

- wherein the component installation engine updates dated ones of said dependencies with said updated ones of said dependencies prior to installing said application components (*see Column 9: 59-63, "The entries in the software updates list 60 include for each software product version 110 an identification 120 of the software resources required for applying the update and an identification 130 of its prerequisite software products and their version numbers."; Column 11: 46-63, "If all required resources are available locally (or on another machine in the case of software relying on some pre-requisite software operating on a remote machine), and have been verified, then the updater component progresses to the step 310 (see FIG. 4) of building the updated software version."*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Donohue into the teaching of Zimniewicz et al. to include wherein said enforcing step further comprises the step of patching flawed ones of

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said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies. The modification would be obvious because one of ordinary skill in the art would be motivated to provide a central storage area of program modules for quick and efficient access and to correct bugs and/or add new features in the software products (*see Donohue – Column 1: 21-23*).

As per **Claim 8**, the rejection of **Claim 7** is incorporated; and Zimniewicz et al. further disclose:

- wherein said at least one specified relationship comprises a relationship selected from the group consisting of a containment relationship, a usage relationship, a contradictory relationship and an equivalence relationship (*see Column 9: 3-4, "... Program B needs Program C for proper operation."*).

Claims 10, 11, 13, and 15 are machine readable storage claims corresponding to the method claims above (Claims 1, 2, 4, and 6) and, therefore, are rejected for the same reasons set forth in the rejections of Claims 1, 2, 4, and 6.

Response to Arguments

15. Applicant's arguments filed on October 25, 2006 have been fully considered, but they are not persuasive.

In the remarks, Applicant argues that:

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a) Applicants note that claims 7-9 are directed to a machine (i.e., a system), and on this basis, without need for further argument, claims 7-9 are directed to statutory subject matter.

Examiner's response:

a) Examiner disagrees. Claims 7 and 8 are directed to systems. However, the recited components of the systems appear to lack the necessary physical components (hardware) to constitute a machine or manufacture under § 101. A system without any hardware structure, such as processor and memory, cannot be defined as a machine or manufacture. All of the recited components of the system can be reasonably interpreted as computer program modules—software *per se*. Therefore, the claims are directed to systems of functional descriptive material *per se*, and hence non-statutory. See 35 U.S.C. § 101 rejection of Claims 7 and 8 above.

In the remarks, Applicant argues that:

b) Independent claims 1 and 10 specifically recite the claimed enforcing step occurs “prior to installing said subject application component.” Although Donohue teaches “applying updates to programs installed on the local system” (column 9, lines 48-49), Donohue is silent with regard to when the updating occurs during the installation of a subject application component. Zimniewicz is also silent with regard to when any updating occurs. Therefore, Zimniewicz and Donohue, either alone or in combination, fail to teach or suggest updating required dependencies which can be accessed in the target platform prior to installation of the subject application component.

Examiner's response:

b) Examiner disagrees. Donohue clearly discloses when the updating occurs during the installation of a subject application component (*see Column 5: 54-62, "... compares the available relevant updates with update criteria held on the local computer system (these update criteria are predefined for the current system or system user), and then automatically downloads and applies software updates which satisfy the predefined criteria."*).

Zimniewicz et al. clearly disclose when the updating occurs during the installation of a subject application component (*see Figure 3: 102; Column 9: 56-59, "The Setup Manager also installs 102, when necessary, components needed to achieve the scenario baseline if it differs from the suite baseline."*). Zimniewicz et al. also disclose enforcing both said target platform requirements and said at least one specified relationship prior to installing said subject application component (*see Figures 3 and 4a-4c; Column 7: 9-13, "During the installation process, the Setup Manager 79 utilizes the services of a Dependency Manager 85 to ensure that the required dependencies of the application programs within a suite are met." and 15-19, "A Validation Manager 87 is also used by the Setup Manager 79 to verify that required system components needed by the suite are met by the user's system for much the same reasons as for the Dependency Manager 85."; Column 8: 4-7, "The Dependency Manager 85 provided dependency checking and install-order calculation and verification across all selected components ..."; Column 9: 46-48, "Then, the Dependency Manager is called 96 to perform dependency checking among the components that user has selected."; Column 10: 15-19, "The suite installation requirements dynamic load libraries (dll) are then loaded 116 if specified, and a check is made 118 to determine if suite requirements have been met (i.e. RAM, processor,*

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platform, pagefile, etc.).” and 23-24, “A check that the system meets the minimum requirements for the suite baseline is then performed 128.”).

Therefore, Zimniewicz et al. and Donohue, either alone or in combination, teach or suggest updating required dependencies which can be accessed in the target platform prior to installation of the subject application component. See rejection of Claim 1 above.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Qing Chen whose telephone number is 571-270-1071. The

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Examiner can normally be reached on Monday through Thursday from 7:30 AM to 4:00 PM.

The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wei Zhen, can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


WEI ZHEN
SUPERVISORY PATENT EXAMINER

QC / QC
December 20, 2006